IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:	Atty. Docket No.:	005222.00259
Guheen, et. al.		
Serial No.: 09/321,360	Group Art Unit:	3639
Filed: May 27, 1999	Examiner:	Robinson Boyce, Akiba K
For: Phase Delivery of Components of a System Required for Implementation of Technology	Confirmation No.:	6371

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Box Appeal Briefs - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is responsive to the Final Office Action mailed on September 21, 2006. A Notice of Appeal is filed concurrently with this request for review. Applicant is requesting a one-month extension. The Office is authorized to charge any fees to Deposit Account No. 19-0733.

Discussion and Argument

The Final Office Action mailed September 21, 2006, 2006 rejected independent claims 1, 7, and 13 under 35 U.S.C § 103(a) as being obvious over US 4,937,743 (Rassman) and in further view of US 5,208,765 (Turnbull). Claim 1 includes the following features (Emphasis added.):

1.   A method for displaying phases on a computer system in which components of a system for providing a web architecture framework are delivered, wherein all steps are performed on the computer, the method comprising the steps of:

(a)   displaying, through a display adapter by a processor, a pictorial representation of an existing system including a plurality of components;

(b)   identifying, from the plurality of components, a first component group containing additional components and a **second component group containing optional components**, the additional components being required for an implementation of the system, **the optional components being optional for the implementation of the system**;

(c)   compiling, by the processor, an ordered listing of the additional components for implementation into the existing system, the ordered listing providing an order that is required for installing the components in the web architecture framework;

(d)   determining, by the processor, a first set of the additional components for implementation in a first implementation phase;

(e)   determining, by the processor, a second set of the additional components for implementation in a second implementation phase, the first set being implemented before the second set can be implemented;

(f)   modifying, through the display adapter by the processor, the pictorial representation of the existing system to show a pictorial representation of the first set of components being indicia coded to indicate that they are to be delivered in the first phase; and

(g)   modifying, through the display adapter by the processor, the pictorial representation of the existing system to show a pictorial representation of the second set of components being indicia coded in a manner unique with respect

to the indicia coding of the first set of components to indicate that the second set of components is to be delivered in the second phase and that a proper functioning of the second set of components require an installation of the first set of components in the first phase.

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As noted in Applicant's Response mailed June 27, 2006 (page 8-9), the combination of Rassman and Turnbull fails to even suggest the feature of "identifying, from the plurality of components, a first component group containing additional components and a second component group containing optional components, the additional components being required for an implementation of the system, the optional components being optional for the implementation of the system." As disclosed by Rassman (Column 6, lines 19-38. Emphasis added.):

> While the operator of the system can select certain resources for primary display purposes, the system monitors utilization, not only of the displayed primary resources but also of other or secondary resources which may or may not appear on the display, but which are used in conjunction with the displayed primary resources. To illustrate, the operator may choose to display "operating rooms" as the primary resources. **One of those operating rooms, 0, however, may require surgeon S, anaesthesiologist A, heart/lung machine H and heart monitor M. Resources S, A, H and M may be referred to as secondary resources.** If the procedure scheduled for room 0 takes longer than expected, the system will display conflicts, not only with respect to the primary resource, operating room 0, but also with respect to scheduled utilization of the secondary resources, surgeon S, anaesthesiologist A, heart/lung machine H and monitor M. The system can, of course, be so configured as to suppress one or more of these indicia.

Secondary resources S, A, H, M are necessary and are not optional. As disclosed above, Rassman teaches both primary and secondary resources being necessary for a task (i.e., a medical procedure). Rassman does not even suggest that secondary resources are optional but are merely associated with primary resources. The Office Action alleges (Page 3):

> ... (Col, lines 61-8, lines 8-36, shows primary and secondary resources, which represent first and second component groups, respectively. Specifically col. 8, lines 15-20 shows that during the display of primary resources, the display of several pieces of data relating to secondary resources can be made (secondary pieces of data represent additional components). Also, specifically, in col. 8, lines 20-36, the implementation of an application where the display of secondary resources can be employed to make additional optional available, which represent the optional components); ...

Rassman discloses (Column 8, lines 29-36):

> The display of secondary resources could also be employed to make additional options available. For example, instead of having to go through a menu, simply by moving the cursor to one of those displayed secondary resources, the system could be made to display a window with that secondary resource s schedule or other information about that secondary resource. Such a window is shown in FIG. 9.

Rassman merely discloses optional display functions for displaying a representation of a secondary resource, which is necessary for the medical procedure. Moreover, Turnbull merely a division of a plurality of stages, in which each stage includes a set of requirements that must be completed in order for the stage to be completed. (Abstract.) Applicant respectfully submits that the Final Office Action has not made any showing that the combination of Rassman and Turnbull includes the feature of "identifying, from the plurality of components, a first component group containing additional components and a second component group containing optional components, the additional components being required for an implementation of the system, the optional components being optional for the implementation of the system." Moreover, because claims 2-6 and 19 depend from claim 1, claims 2-6 and 19 are patentable over Rassman in view of Turnbull.

Independent claim 7 includes the similar feature of "a code segment that identifies, from the plurality of components, a first component group containing additional components and a second component group containing optional components, the additional components being required for an implementation of the system, the optional components being optional for the implementation of the system." Also, independent claim 13 includes the feature of "logic for identifying, from the plurality of components, a first component group containing additional components and a second component group containing optional components, the additional components being required for an implementation of the system, the optional components being optional for the implementation of the system." Claims 8-12 and 14-18 ultimately depend from claims 7 and 13, respectively, and are patentable for at least the above reasons.

Respectfully submitted,

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